W.P.(C) No. 5684 of 2002
24.02.2016

Heard Mr. S.K. Dash, learned counsel for the petitioner and Mr. A.K. Mishra, learned Addl. Government Advocate for the State.

Though notice was issued to opposite party nos. 3 and 4 by speed post and A.D. have been received after valid service, none entered appearance for opposite party nos. 3 and 4.

The petitioner files this application challenging the advertisement under Annexure-9 and further seeks for a direction to opposite parties to revoke the order of suspension and reinstate him in service forthwith with all consequential benefits like arrear salary, continuation in service etc.

Mr. S.K. Dash, learned counsel for the petitioner states that when advertisement was issued under Annexure-9 to fill up the post of P.E.T. for Indira Gandhi Mahila Mahavidyalaya, Udala, the petitioner approached this Court by filing this application. This Court while entertaining this application issued notice to opposite parties and passed an order to the following effect:

Although an interim prayer has been made stating that proposed walk-in-interview pursuant to Annexure-9, I am not inclined to stay the said interview as the same was scheduled on 2.6.2002. I direct that the services of the petitioner will not be terminated in the meanwhile in the case the same have not been terminated already. Interim matter will be taken up after notice again

He further submits that though requisites have been filed notice has not been issued. Again when the matter was listed on 06.04.2015, this Court directed to take fresh notice to party nos. 3 and 4 by speed post. Though notice has been made sufficient, none enters appearance. In the meantime, misc. case has been filed bearing Misc. Case No. 7928 of 2002 by which an order dated 01.07.2002 passed by the Secretary, G.B. of I.G. Mahila Mahavidyalaya, Udala, Mayurbhanj has been incorporated, wherein it is stated that as per Resolution of the Governing Body vide proceeding no. 41 dated 07.12.2001, the service of the petitioner has been terminated from the post of P.E.T. w.e.f. 18.12.2001. It is urged that such letter has been issued after the interim order passed by this Court on 05.06.2002 in Misc. Case No. 5959 of 2002, as such, the order of termination has been passed on 01.07.2002 with retrospective effect from 18.12.2001.

Mr. A.K. Mishra, learned Addl. Government Advocate for the State states that it is a matter between the petitioner and opposite party nos. 3 and 4 and the State has nothing to say in the matter.

Considering the contention raised by learned counsel for the parties and after going through the records, since opposite party nos. 3 and 4 after due notice have not appeared, applying the principle of non-traverse, on the basis of the pleadings available on record, the advertisement issued in Annexure-9 to fill up the post of P.E.T. is hereby quashed. As such, the order dated 01.07.2002 passed by the Secretary, G.B. of I.G. Mahila Mahavidyalaya, Udala, Mayurbhaj cannot sustain and the same is hereby also quashed. The petitioner is allowed to continue in the post of P.E.T. and he should be granted all consequential benefits as due and admissible to the post in accordance with law.

With the above observation and direction, the writ petition stands disposed of.

.

Dr. B.R. Sarangi, J.